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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,226	08/13/2001	Stephen F. Gass	SDT 312	8818
27630	7590	07/27/2004	EXAMINER	
SD3, LLC 22409 S.W. NEWLAND ROAD WILSONVILLE, OR 97070			ASHLEY, BOYER DOLINGER	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 07/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/929,226

Applicant(s)

GASS ET AL.

Examiner

Boyer D. Ashley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,9 and 11-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,9 and 11-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

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DETAILED ACTION

1. This office action is in response to applicant's amendment filed 3/3/04, wherein claims 1 and 3-5 were amended; claims 2, 6-8, and 10 were canceled; and claims 11-22 were added. The previous rejections and indications of allowable subject matter in the previous office action are henceforth withdrawn in view of the following new grounds of rejection.

Election/Restrictions

2. Newly submitted claims 17, 19 and 21 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

3. Inventions of Claims 1, 3-5, 9, 11-16, 18, 20 and 17, 19, and 21 are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions, e.g., the saw is not capable of being used with the jointer or shaper.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 17, 19, 21 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Specification

4. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the

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patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

5. The abstract of the disclosure is objected to because it refers to purported merits, e.g., "A safer woodworking ...". Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 20, the expression "a support structure" on line 8 appears to be a double inclusion of the support structure on line 2.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 20 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Lokey, U.S. Patent 3,785,230.

Lokey discloses the same invention as claimed including: a support structure (112); a generally circular and rotatable cutting tool (113) with an outside surface; at least one cutting edge (any one tooth) on the outside surface of the cutting tool, wherein the cutting edge is adapted to cut a workpiece when the cutting tool rotates (see Figure 7 and column 1); a support structure (114) adapted to support the cutting tool for rotation in an operative position such that a workpiece is cut; a motor (115) adapted to drive the cutting tool; a detection system (e.g., 15-16, see column 1, lines 60-68; column 2, lines 1-6) to detect a dangerous condition between the cutting edge and a person (the cutting edge is part of the blade); and a reaction system (124-126) adapted to disable the cutting edge with the cutting tool in the operative position upon detection by the detection system of the dangerous condition (the blade 113 remains in the operative position as shown in Figure 7 and the brake 125 disable the cutting edge by stopping the rotating of the blade).

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As to claim 22, Lokey discloses cover the cutting edge with the brake. See Figure 7, wherein it is shown that the brake engages and covers at least one cutting edge (a tooth) when activated.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lokey, U.S. Patent 3,785,230, in view of Yoneda, U.S. Patent 4,117,752, and Peter, U.S. Patent 3,805,639.

Lokey discloses the invention substantially as claimed including a woodworking machine with capacitive proximity sensor to detect a dangerous condition between a user and a blade and a reaction system for stopping the blade upon detection of the dangerous condition. However, Lokey lacks the detection system with an electrically conductive cutter such that an electrical signal is imparted on the cutter wherein dangerous condition is detected by change in the electric signal on the cutter. Yoneda discloses that it is old and well known in the art to use detection systems that impart electrical signals on blades such that the changes to the electrical signal caused by the user contacting the blade are detected to indicated to the reaction system that the blade must be stopped for the purpose of allowing the user more freedom to work around the blade without causing false alarms. Therefore, it would have been obvious to one of

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ordinary skill in the art at the time of the invention was made to use the detection/reaction systems of Yoneda for the safety system of Lokey in order to allow the user more freedom to work around the blade with the user hand.

The modified device of Lokey lacks the reaction system that covers the cutter upon detection of the contact between the user and the blade. However, Peters discloses that it is old and well known in the art to cover a blade with a guard whenever the power to the blade is switch off in order to protect the user from injury. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made have the blade guard of the modified device of Lokey cover close upon detection of the contact between the user and the blade in order to protect the user from injury.

Double Patenting

12. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

13. Claim 20 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 14-15 of

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compending Application No. 10/215,929. Although the conflicting claims are not identical, they are not patentably distinct from each other because they differ only in claim terminology used but encompass the same subject matter, that is, the claim language of claims 1 and 14-15 in application '929 anticipates the language of claim 20 because claims 1 and 14-15 teaches braking the blade which disables the cutting edge of the blade, wherein the blade is that of a table saw or miter saw which inherently have generally circular, rotating blades with support structures.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

14. Claim 20 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of compending Application No. 09/929,235. Although the conflicting claims are not identical, they are not patentably distinct from each other because they differ only in claim terminology used but encompass the same subject matter, that is, the claim language of claim 1 in application '235 anticipates the language of claim 20 because claim 1 teaches braking the blade which disables the cutting edge of the blade.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

15. Claims 9 and 20 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of compending Application No. 10/643,296. Although the conflicting claims are not identical, they are not patentably distinct from each other because they differ only in claim

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terminology used but encompass the same subject matter, that is, the claim language of claims 1-10 in application '296 anticipate the language of claims 9 and 20 because application '296 teaches braking the blade which disables the cutting edge of the blade as well as placing a barrier between the user and the blade.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

16. Claim 20 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 5 of copending Application No. 09/929,244. Although the conflicting claims are not identical, they are not patentably distinct from each other because they differ only in claim terminology used but encompass the same subject matter, that is, the claim language of claims 1 and 5 in application '244 anticipates the language of claim 20 because claims 1 and 5 teach braking the blade which disables the cutting edge of the blade.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

17. Claim 20 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 12, 14, and 20 of copending Application No. 10/050,085. Although the conflicting claims are not identical, they are not patentably distinct from each other because they differ only in claim terminology used but encompass the same subject matter, that is, the claim language of claims 12, 14, and 20 in application '085 anticipate the language of claim 20 because

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claims 12, 14, and 20 teaches braking the blade which disables the cutting edge of the blade.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

18. Claim 20 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/047,066. Although the conflicting claims are not identical, they are not patentably distinct from each other because they differ only in claim terminology used but encompass the same subject matter, that is, the claim language of claim 1 in application '066 anticipates the language of claim 20 because claim 1 teaches braking the blade which disables the cutting edge of the blade.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

19. Claim 20 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 15, and 20 of copending Application No. 10/345,630. Although the conflicting claims are not identical, they are not patentably distinct from each other because they differ only in claim terminology used but encompass the same subject matter, that is, the claim language of claims 1, 15, and 20 in application '630 anticipate the language of claim 20 because claims 1, 15, and 20 teaches braking the blade which disables the cutting edge of the blade.

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This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

20. Claim 20 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 15-16 of copending Application No. 10/052,274. Although the conflicting claims are not identical, they are not patentably distinct from each other because they differ only in claim terminology used but encompass the same subject matter, that is, the claim language of claims 15 and 16 in application '274 anticipate the language of claim 20 because claims 15 and 20 teach a miter saw for braking the blade which disables the cutting edge of the blade.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

21. Claim 20 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 7-15, and 19-20 of copending Application No. 10/052,806. Although the conflicting claims are not identical, they are not patentably distinct from each other because they differ only in claim terminology used but encompass the same subject matter, that is, the claim language of claims 1, 7-15, and 19-20 in application '806 anticipate the language of claim 20 because claims 1, 7-15, and 19-20 teach a miter saw for braking the blade which disables the cutting edge of the blade.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

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22. Claim 20 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 6-23 of copending Application No. 10/052,273. Although the conflicting claims are not identical, they are not patentably distinct from each other because they differ only in claim terminology used but encompass the same subject matter, that is, the claim language of claims 1 and 6-23 in application '273 anticipate the language of claim 20 because claims 1 and 6-23 teach a miter saw for braking the blade which disables the cutting edge of the blade.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

23. Claim 20 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4-6, 9-16, 19, and 26-27 of copending Application No. 09/929,238. Although the conflicting claims are not identical, they are not patentably distinct from each other because they differ only in claim terminology used but encompass the same subject matter, that is, the claim language of claims 1, 4-6, 9-16, 19, and 26-27 in application '238 anticipate the language of claim 20 because claims 1, 4-6, 9-16, 19, and 26-27 teach a miter saw for braking the blade which disables the cutting edge of the blade.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

24. Claim 20 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 5, 7, and 20 of

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compending Application No. 10/051,782. Although the conflicting claims are not identical, they are not patentably distinct from each other because they differ only in claim terminology used but encompass the same subject matter, that is, the claim language of claims 1, 5, 7, and 20 in application '782 anticipate the language of claim 20 because claims 1, 5, 7, and 20 teach a miter saw for braking the blade which disables the cutting edge of the blade.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

25. Claim 20 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 9-12, and 14-19 of compending Application No. 09/955,418. Although the conflicting claims are not identical, they are not patentably distinct from each other because they differ only in claim terminology used but encompass the same subject matter, that is, the claim language of claims 1, 9-12, and 14-19 in application '418 anticipate the language of claim 20 because claims 1, 9-12, and 14-19 teach an up-cut chop saw with a rotating blade and support wherein upon detection of contact between the user and the blade the blade is retracted below the work surface which disable the cutting edge, in that the cutting edge is no long able to cut anything.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

26. Claim 20 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 17, and 19 of

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compending Application No. 10/100,211. Although the conflicting claims are not identical, they are not patentably distinct from each other because they differ only in claim terminology used but encompass the same subject matter, that is, the claim language of claims 1, 17, and 19 in application '211 anticipate the language of claim 20 because claims 1, 17, and 19 teach a miter saw or table saw for braking the blade which disables the cutting edge of the blade.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

27. Claim 20 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 27-35 of compending Application No. 09/676,190. Although the conflicting claims are not identical, they are not patentably distinct from each other because they differ only in claim terminology used but encompass the same subject matter, that is, the claim language of claims 27-35 in application '190 anticipate the language of claim 20 because claims 27-35 teach a miter saw or table saw for braking the blade which disables the cutting edge of the blade.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Response to Arguments

28. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.


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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boyer D. Ashley whose telephone number is 703-308-1845. The examiner can normally be reached on Monday-Thursday 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 703-308-1082. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Boyer D. Ashley
Primary Examiner
Art Unit 3724

BDA
July 25, 2004